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**From:**

**Sent:** Saturday, October 13, 2012 11:07:55 AM

**To:**

**Cc:**

**Subject:** RE: Cont Levy

Hi,

To recap, earlier this week, to answer your question re: levies on contract payments to Medicare providers, I responded:

There is a contract. But it is a contract for services that have yet to be performed, if I understand the situation. In other words. it's not installment payments for services already provided to patients--it's a levy on future payments for services to be performed in the future. The big difference between SS payments and this situation is that the SS payee, unlike the doctor or whoever, has done everything she/he needs to do to get the payments. So I'm thinking there would be a fixed and determinable problem in your situation, and that it would not be a section 6331(a) levy of continuing effect.

As an aside to the question you asked, I mentioned that I would follow up re whether a continuous levy under 6331(e) is a viable option in the Medicare provider contract for services situation. The answer is, it would depend. It requires fact-specific determinations, such as whether the payments can be properly characterized as wages/salary and whether the payments are due to an individual/sole proprietor, corporation, LLC or other entity. Therefore, whether to use a continuing wage levy under section 6331(e) would require a case-by-case decision. In any case, this is a hypothetical matter because, as you know, IRM 5.11.6.6.2, which covers levies on Medicare providers, provides that paper levies are issued on Form 668-A.

If you would like to discuss this further, please call or email me.